



Phone: 984-287-3354
Fax: 301-480-3371
E-mail: niehsfoia@niehs.nih.gov

National Institutes of Health
National Institute of
Environmental Health Sciences
P.O. Box 12233, MD K3-16
Research Triangle Park, NC 27709-2233

SENT VIA ELECTRONIC MAIL

January 18, 2019

Stephan Neidenbach
c/o MuckRock News
DEPT MR 48665
411A Highland Ave
Somerville, MA 02144-2516
48665-54507095@requests.muckrock.com

Re: FOIA Request Case No. 47521

Dear Mr. Neidenbach:

This correspondence is a follow up to prior correspondence on February 27, 2018, regarding your Freedom of Information Act (FOIA) request dated February 12, 2018. In sum, your request seeking certain records read:

"emails to or from Director Linda S. Birnbaum to or from any of the following individuals: Gary Ruskin, Stacy Malkan, Carey Gillam, Becky Morrison, Juliet Schor, Charlie Cray, Lisa Graves, Paul Thacker. Please include emails from December 1, 2017 to the present."

This is a final response. We searched the files of NIEHS for records responsive to your request. That search produced the enclosed 8 pages responsive to your request.

It is Department of Health and Human Services (HHS) policy to expunge confidential information in records responsive to FOIA requests, for example: social security numbers, birth dates, personal financial information [including bank information, credit card numbers, and account information with private companies], personal contact information [including phone numbers, personal email addresses, and home addresses], certain contract and grant information [including ERA Commons User Names, percentage of effort, institutional base salary, source of private support, pending support, reviewers' comments, patentable material wherever they appear throughout the grant material].

On January 10, 2019, I reached out to you to inquire whether you were seeking information that would be routinely withheld under FOIA in these records. You responded on January 15, 2019, and relayed that you are not seeking that information. Therefore, the personal contact information was omitted from the enclosed records. However, after reviewing the enclosed records if you feel that information omitted should not be excluded from the material, please write to me and I will consult with the NIEHS FOIA Public Liaison and we may consult the NIH Freedom of Information Officer.

In certain circumstances provisions of the FOIA and Department of Health and Human Services FOIA Regulations allow us to recover part of the cost of responding to your request. Provisions of the FOIA allow us to recover part of the cost

of complying with your request. Because no unusual circumstances apply to the processing of your request, there are no charges associated with our response.

As noted, this is a final response. If you are not satisfied with the processing and handling of your request, you may decide to submit an appeal. If you would like to discuss this before filing an appeal, you are welcome to contact any of the following:

NIEHS FOIA Public Liaison

Regina J. Stabile, J.D.
Office of Communications and
Public Liaison
P.O. Box 12233
Mail Drop K3-16
Research Triangle Park, NC 27709
984-287-3354 (phone)
301-480-3371 (fax)
niehsfoia@niehs.nih.gov (email)

NIH FOIA Public Liaison

Stephanie Clipper
Public Affairs Specialist
Office of Communications and
Public Liaison
Building 1, Room 331
1 Center Drive
Bethesda, MD 20892
301-496-1828 (phone)
niehfoia@mail.nih.gov (email)

Office of Government

Information Services (OGIS)
National Archives and
Records Administration
8601 Adelphi Rd - OGIS
College Park, MD 20740-6001
202-741-5770 (phone)
1-877-684-6448 (toll-free)
202-741-5769 (fax)
ogis@nara.gov (email)

Should you choose to submit an appeal, your appeal must be sent within ninety (90) days of the date of this letter, following the procedures outlined in Subpart F of the HHS FOIA Regulations (<https://www.federalregister.gov/documents/2016/10/28/2016-25684/freedom-of-information-regulations>) to:

Assistant Secretary for Public Affairs
Agency Chief FOIA Officer
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
Room 729H
200 Independence Avenue, S.W.
Washington, DC 20201

Please clearly mark both the envelope and your letter "Freedom of Information Act Appeal." You may also e-mail your appeal to: HHS.ACFO@hhs.gov.

We appreciate your interest in the National Institute of Environmental Health Sciences. If we may be of further assistance regarding your FOIA request, please contact our office.

Sincerely,

A handwritten signature in blue ink that reads "Regina Stabile". The signature is written in a cursive, flowing style.

Regina J. Stabile, J.D.
NIEHS FOIA Public Liaison
NIEHS/OD/FOIA Office

Enclosure

From: Eason, Allison (NIH/NIEHS) [E]
Sent: Tuesday, April 17, 2018 12:24 PM
To: Flowers, Christine B (NIH/NIEHS) [E]
Cc: Evans, Sharon L (NIH/NIEHS) [E]
Subject: RE: FW: questions about your chemical paper/MRLs

I put this on Linda's chair so she can take a look at it as soon as she finished up with Darryl at 1.

Allison Eason

Office of the Director, NIEHS
111 TW Alexander Drive
Bldg 101/Rm B240
RTP, NC 27709
984-287-3800
www.niehs.nih.gov

From: Flowers, Christine B (NIH/NIEHS) [E]
Sent: Tuesday, April 17, 2018 12:22 PM
To: Birnbaum, Linda (NIH/NIEHS) [E] <birnbaum@niehs.nih.gov>
Cc: Eason, Allison (NIH/NIEHS) [E] <allison.eason@nih.gov>
Subject: FW: FW: questions about your chemical paper/MRLs

Linda – circling back with you about the interview request from Carey Gillam (below). If you want to do the interview, you'll need to send me a sentence or two summarizing what'd you'd say, so I can send up the clearance to NIH and HHS. If you won't have time to do the interview, I can respond that your schedule is full and that you will not be able to do the interview. Just let me know.

Thanks

Christine Bruske Flowers

[Director, Office of Communications and Public Liaison](#)
National Institute of Environmental Health Sciences
National Institutes of Health
U.S. Department of Health and Human Services
919-541-3665

Carey Gillam

Author of [Whitewash - The Story of a Weed Killer, Cancer and the Corruption of Science](#)
913-526-6190
carey@careygillam.com
<https://twitter.com/careygillam>
<http://www.careygillam.com>

On Fri, Apr 6, 2018 at 4:24 PM, Carey Gillam <carey@careygillam.com> wrote:

Hello Christine!

So sorry to be so delayed in responding; I'm traveling a bit and struggling to keep all my balls in the air!

Nevertheless, I'm so grateful to hear from you, and do hope that Dr. Birnbaum can help guide me in my writing and research on this topic.

The MRLs issue is a very small element of the larger work I'm trying to do. I'm putting in bold the specific questions I'm asking, but weaving in the context for each of the questions so they are clear.

Essentially, I'm trying to get at the root of this question:

*** Can consumers trust that pesticide residues on foods are not dangerous to their health as long as they fall under the Maximum Residue Limit (MRL)s set by the EPA?**

I understand the formula for how the EPA arrives at the MRLs, but what I find hard to comprehend is how government scientists justify or explain situations like what we've seen with chlorpyrifos - EPA set tolerances and said residues within those tolerances were nothing to be concerned about. But with updated scientific research, the EPA altered its view and said in 2015 that it planned to revoke tolerances because it could not determine if aggregate exposure to chlorpyrifos residues were actually "safe."

This clearly begs the question - what else will EPA determine is not safe that we're now told is safe when it comes to pesticide residues in food and water.

I was intrigued by Dr. Birnbaum's paper that stated *"existing US regulations have not kept pace with scientific advances showing that widely used chemicals cause serious health problems at levels previously assumed to be safe. The most vulnerable population, our children, face the highest risks. More research is needed to better understand the risks posed by these chemicals."*

*** So I wonder if that comment, though general in nature, would also apply to the MRL issue?**

*** Do we know if the science surrounding MRLs (residues in food and water) is adequate to protect public health?**

*** If not, what should be done?**

*** If so, how do we understand the reversal on chlorpyrifos?**

*** MRLs are often set at levels in the United States that are different from levels set in other countries for the same pesticide and the same foods. How is this explained?**

I was told the following by a longtime FDA insider- "

They keep saying that the concentration is below the regulation or toxicity is below the level of concern. The issue is the number. If you set a high tolerance in food, you will rarely or never find violations and so the residue level can be considered "safe" and not illegal. Yet look at the tolerance for glyphosate in egg, which is 0.05 ppm. And the tolerance of glyphosate in soybean seed is 20 ppm. Does that mean it is not okay to consume egg with 0.100 ppm of glyphosate (over the tolerance) but okay to eat soybean with 19 ppm (below the tolerance)? It is the number game to avoid the law."

*** Do you see validity in that assessment or not? If not, can you help me understand why not?**

Dr. Birnbaum also states in the paper from December that *"science is not always enough. Closing the gap between evidence and policy will require that engaged citizens, both scientists and non scientists, work to ensure our government officials pass health-protective policies based on the best available scientific evidence."*

Are political pressures hindering protective public health policy?

Separate from MRLs, I'd love to have a discussion about the broader issues of the "*additive effects of chemical mixtures, the different properties of the wide range of pesticides used in agriculture, and the lack of data to show what distance is truly protective*" as laid out in the December paper. My first question on that front would be

*** What is being done now by government agencies such as NIEHS to address that shortfall? Are there political issues slowing progress on this front?**

I'd be so grateful if you can share these with Dr. Birnbaum. If she would speak to me on the phone, that would be so helpful. We could keep the conversation off the record with the agreement she would only be quoted if there was some specific statement she designated as on the record. If she prefers to answer these via email, that is also obviously very much appreciated.

Best regards,

Carey Gillam

Author of [Whitewash - The Story of a Weed Killer, Cancer and the Corruption of Science](#)

[Personal Contact Information]



On Tue, Apr 3, 2018 at 4:23 PM, Flowers, Christine B (NIH/NIEHS) [E] <bruskec@niehs.nih.gov> wrote:

Hello Mr. Gillam –

Dr. Birnbaum asked me to follow up with you regarding your request to interview her on EPA's MRLs for pesticides. Please send your questions to me by email.

Thank you,

Christine Bruske Flowers

[Director, Office of Communications and Public Liaison](#)

National Institute of Environmental Health Sciences

National Institutes of Health

U.S. Department of Health and Human Services

919-541-3665

From: Carey Gillam [<mailto:carey@careygillam.com>]

Sent: Monday, January 22, 2018 10:24 AM

To: Birnbaum, Linda (NIH/NIEHS) [E] <birnbaum@niehs.nih.gov>

Subject: questions about your chemical paper/MRLs

Greetings Linda - I'm a longtime journalist (most of my career at Reuters) turned author and researcher. My work for the last 20 years has focused on agrochemical practices and policy matters, and I'm heartened to see your recent paper *Regulating toxic chemicals for public and environmental health*. I do a lot of public speaking and consultation with farm and food groups and was one of seven "experts" asked to testify before the European Parliament about glyphosate issues in October. I've also been asked to meet with House staffers (on the minority side) to help them prepare for an upcoming hearing aimed at looking at EPA's regulation of chemicals. I tell you all this in hopes you will find me worth your time, as I would very much like to speak with you about research I'm trying to do on the evolution of MRLs in the US, and how much confidence consumers can have, or should not have, in these "tolerance" levels set by EPA for pesticide residues in our food and water.

I think chlorpyrifos provides such a clear example of the lack of certainty embedded in the MRL standard, as EPA scientists said last year they could no longer vouch for the safety of any level of residue of this insecticide, though for years of course there have been legal limits, which regulators tell consumers are "safe" for consumption.

Would you have time for a chat, or at the least, to consider some questions via email? I'm thinking you may also have suggestions for other scientists I should reach out to as I strive to understand the MRL safety issue.

You can see more about me at my website, linked below in signature. By the way, I'm aware of Lamar Smith's attack on you, and if you were willing to speak about that to me as well, that would be welcomed. I'm pondering a piece on Smith's overall efforts to stifle EPA chemical regulations.

Bests,

Carey Gillam

Author of [*Whitewash - The Story of a Weed Killer, Cancer and the Corruption of Science*](#)

[Personal Contact Information]



From: Birnbaum, Linda (NIH/NIEHS) [E]
Sent: Monday, April 9, 2018 3:15 PM
To: Evans, Sharon L (NIH/NIEHS) [E]
Subject: Fwd: questions about your chemical paper/MRLs

Linda S. Birnbaum, Ph.D., D.A.B.T., A.T.S
Director, National Institute of Environmental Health Sciences
and National Toxicology Program
phone: [919-541-3201](tel:919-541-3201)
fax: [919-541-2260](tel:919-541-2260)
e-mail: birnbaumsl@niehs.nih.gov
Sent from my iPhone

Begin forwarded message:

From: "Flowers, Christine B (NIH/NIEHS) [E]" <bruskec@niehs.nih.gov>
Date: April 9, 2018 at 3:13:29 PM EDT
To: "Birnbaum, Linda (NIH/NIEHS) [E]" <birnbaumsl@niehs.nih.gov>
Subject: FW: FW: questions about your chemical paper/MRLs

Linda – see Carey Gillam’s questions below...some drawn from your editorial related to the anti-lobbying issue...

Christine Bruske Flowers

[Director, Office of Communications and Public Liaison](#)
National Institute of Environmental Health Sciences
National Institutes of Health
U.S. Department of Health and Human Services
919-541-3665

From: Carey Gillam [<mailto:carey@careygillam.com>]
Sent: Friday, April 06, 2018 5:24 PM
To: Flowers, Christine B (NIH/NIEHS) [E] <bruskec@niehs.nih.gov>
Subject: Re: FW: questions about your chemical paper/MRLs

Hello Christine!

So sorry to be so delayed in responding; I'm traveling a bit and struggling to keep all my balls in the air! Nevertheless, I'm so grateful to hear from you, and do hope that Dr. Birnbaum can help guide me in my writing and research on this topic.

The MRLs issue is a very small element of the larger work I'm trying to do. I'm putting in bold the specific questions I'm asking, but weaving in the context for each of the questions so they are clear.

Essentially, I'm trying to get at the root of this question:

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Best regards,

Carey Gillam

Author of [Whitewash - The Story of a Weed Killer, Cancer and the Corruption of Science](#)

[Personal Contact Information]

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Hello Mr. Gillam –

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Christine Bruske Flowers

[Director, Office of Communications and Public Liaison](#)

National Institute of Environmental Health Sciences

National Institutes of Health

U.S. Department of Health and Human Services

919-541-3665

From: Carey Gillam [<mailto:carey@careygillam.com>]

Sent: Monday, January 22, 2018 10:24 AM

To: Birnbaum, Linda (NIH/NIEHS) [E] <birnbaum@niehs.nih.gov>

Subject: questions about your chemical paper/MRLs

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